

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

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)
) MDL NO. 1456
) Civil Action No. 01-12257-PBS
)

) Judge Patti B. Saris
)

)
) THIS DOCUMENT RELATES TO:
)

)
) *The City of New York v. Abbott Labs., et al.*
) (S.D.N.Y. No. 04-CV-06054)
) *County of Suffolk v. Abbott Labs., et al.*
) (E.D.N.Y. No. 03-CV-229)
) *County of Westchester v. Abbott Labs., et al.*
) (S.D.N.Y. No. 03-CV-6178)
) *County of Rockland v. Abbott Labs., et al.*
) (S.D.N.Y. No. 03-CV-7055)
) *County of Dutchess v. Abbott Labs., et al.*
) (S.D.N.Y. No. 05-CV-06458)
) *County of Putnam v. Abbott Labs., et al.*
) (S.D.N.Y. No. 05-CV-04740)
) *County of Washington v. Abbott Labs., et al.*
) (N.D.N.Y. No. 05-CV-00408)
) *County of Rensselaer v. Abbott Labs., et al.*
) (N.D.N.Y. No. 05-CV-00422)
) *County of Albany v. Abbott Labs., et al.*
) (N.D.N.Y. No. 05-CV-00425)
)

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**JOINT MOTION TO MODIFY
THE EXPERT DISCOVERY SCHEDULE**

<i>County of Warren v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00468))
<i>County of Greene v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00474))
<i>County of Saratoga v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00478))
<i>County of Columbia v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00867))
<i>Essex County v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00878))
<i>County of Chenango v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00354))
<i>County of Broome v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00456))
<i>County of Onondaga v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00088))
<i>County of Tompkins v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00397))
<i>County of Cayuga v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00423))
<i>County of Madison v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00714))
<i>County of Cortland v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00881))
<i>County of Herkimer v. Abbott Labs. et al.</i>)
(N.D.N.Y. No. 05-CV-00415))
<i>County of Oneida v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00489))
<i>County of Fulton v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00519))
<i>County of St. Lawrence v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00479))
<i>County of Jefferson v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00715))
<i>County of Lewis v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00839))
<i>County of Chautauqua v. Abbott Labs., et al.</i>)
(W.D.N.Y. No. 05-CV-06204))
<i>County of Allegany v. Abbott Labs., et al.</i>)
(W.D.N.Y. No. 05-CV-06231))
<i>County of Cattaraugus v. Abbott Labs., et al.</i>)
(W.D.N.Y. No. 05-CV-06242))
<i>County of Genesee v. Abbott Labs., et al.</i>)
(W.D.N.Y. No. 05-CV-06206))
<i>County of Wayne v. Abbott Labs., et al.</i>)
(W.D.N.Y. No. 05-CV-06138))

<i>County of Monroe v. Abbott Labs., et al.</i>)
(W.D.N.Y. No. 05-CV-06148))
<i>County of Yates v. Abbott Labs., et al.</i>)
(W.D.N.Y. No. 05-CV-06172))
<i>County of Niagara v. Abbott Labs., et al.</i>)
(W.D.N.Y. No. 05-CV-06296))
<i>County of Seneca v. Abbott Labs., et al.</i>)
(W.D.N.Y. No. 05-CV-06370))
<i>County of Orleans v. Abbott Labs., et al.</i>)
(W.D.N.Y. No. 05-CV-06371))
<i>County of Ontario v. Abbott Labs., et al.</i>)
(W.D.N.Y. No. 05-CV-06373))
<i>County of Schuyler v. Abbott Labs, et al.</i>)
(W.D.N.Y. No. 05-CV-06387))
<i>County of Steuben v. Abbott Labs., et al.</i>)
(W.D.N.Y. No. 05-CV-06223))
<i>County of Chemung v. Abbott Labs., et al.</i>)
(W.D.N.Y. No. 05-CV-06744))
AND)
<i>County of Nassau v. Abbott Labs., et al.</i>)
(E.D.N.Y. No. 04-CV-5126))

The parties jointly move this Court for an order extending the expert discovery schedule.

In support of their motion, the parties state as follows:

1. The scheduling order entered by the Court on April 29, 2009 requires that plaintiffs and defendants submit their expert reports and materials on or before June 1, 2010 and August 1, 2010, respectively, and that expert depositions be completed by September 1, 2010.
2. By agreement of the parties, some factual discovery of defendants and the plaintiff counties, the New York Department of Health, and certain third-parties has not yet been completed. That fact discovery is certain to form the basis for one or more of the parties' experts' opinions.
3. In addition, it is likely that some experts engaged by the parties in the consolidated New York Counties cases will be the same as the experts engaged in the Iowa

matter. The City of New York and all New York Counties except Nassau and Orange are represented by the same counsel as the State of Iowa.

4. On March 25, 2010, the Court entered a scheduling order in the Iowa case that sets forth the following expert discovery deadlines:

ACTION	DEADLINE
Plaintiff shall serve expert reports and other materials in compliance with Fed. R. Civ. P. 26(a)(2)(B).	September 15, 2010
Defendants shall serve expert reports and other materials in compliance with Fed. R. Civ. P. 26(a)(2)(B).	November 15, 2010
All expert depositions shall be completed.	December 15, 2010

5. The parties agree that having expert discovery deadlines that are the same in both the New York and Iowa actions would create certain efficiencies for the parties and perhaps the Court.

WHEREFORE the parties respectfully and jointly request that the Court enter an order for the New York Counties' case that adopts the same expert discovery schedule as in the Iowa case.

Respectfully submitted,

City of New York and New York Counties in
MDL 1456 except Nassau and Orange

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Dated: May 17, 2010

CERTIFICATE OF SERVICE

I, John P. Bueker, certify that a true and correct copy of the foregoing Joint Motion to Modify the Expert Discovery Schedule was served on all counsel of record by electronic service pursuant to Paragraph 11 of the Case Management Order No. 2 on May 17, 2010.

/s/ John P. Bueker
John P. Bueker